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10/06/2000

David Allison Bennett

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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/684,871
Filing Date: October 06, 2000
Appellant(s): BENNETT ET AL.

Marilyn R. Khorsandi
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 1/28/08 appealing from the Office action mailed 7/27/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

09/680,654 Appeal Pending, Reply Brief filed, no opinion has been rendered.

09/685,077 Appeal Pending, Reply Brief filed, no opinion has been rendered.

09/684,861 Appeal Pending, Reply Brief filed, no opinion has been rendered.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5,485,369	NICHOLLS ET AL.	1-1996
6,233,568	KARA	5-2001

Williams, Martyn, "Internet Update" Newbytes, February 18, 1998, pp. 1-3

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

a. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Appellant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-10 and 15-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholls et al. (5,485,369) in view of Kara (6,233,568) in further view of InterShipper (Newsbytes Article, Internet Update)

4. With respect to Claims 1-10 and 15-21: Nicholls discloses the use of a shipping computer system (see abstract), with a method of using the system and a computer program located on the computer system, which instructs the computer to (column 4, lines 8-24, and columns 15-27) collect parcel specifications, such as weight and dimensions as well as origin and destination addresses (Figures 4A and 4B) and a default location (columns 17 and 18, Table II), and to use shipping rules to calculate rates for the shipment (column 4, lines 49-55, column 5, lines 34-40, columns 25 and 26, line 39). Nicholls discloses using the origin and destination zip codes and zones (column 8, lines 43-55). Nicholls discloses each carrier having a set of shipping requirements and a predefined rate structure (column 2, lines 17-19, column 4, lines 49-55 and claim 1), and identifying and displaying the carriers along with the rates of services, for each of the parcels according the rules (See Figures 4B, 4C and 4D, column 2, lines 32-38, column 7, lines 25-29 and claim 1) for each carrier. Nicholls discloses storing this information into a database (Column 7, lines 53-67). Nicholls discloses this system to be used over a global network (Column 3, lines 38-45).

5. However Nicholls fails to disclose that for each carrier determining whether the carrier would support the shipping of a particular parcel according to rules, and generating a simultaneous display of rates for multiple carriers for a delivery service. Kara discloses simultaneously displaying rates for multiple carriers for a selected delivery service (see Figure 8) and discloses the rates are disclosed for those carriers meeting the desired parameters (Column

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22, lines 13-48). It would have been obvious to one having ordinary skill in the art at the time the invention was made, to modify Nicholls, to display the rates for multiple carriers, as disclosed by Kara, in order to allow a user to compare rates and choose a carrier themselves. (see Kara, Columns 3-5).

6. Kara and Nicholls disclose generating an online display of at least one service of a plurality of carriers, however fails to disclose the simultaneous display of the rates for each carrier for each service. Intershipper is an internet, online website, where internet users can enter origin, destination, package weight and dimensions and will be displayed every method possible that you can use to ship your package for all major shippers (See Internet Update Article Page 1, Paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Nicholls and Kara to display every method possible to ship a package, as disclosed by InterShipper, in order to find the cheapest shipping rate (See Page 1).

(10) Response to Argument

With respect to Appellant's argument of Issue 1A: The appellant has argued that the terms "shipping location", "Default Shipping Location" and "Determine... According to shipping location rules" are distinguishable over the prior art of record. The appellant has pointed out places in the specification where these terms are defined, and states the prior art of record does not disclose this. However the appellant has failed to argue how the references as applied, are different to the claimed invention and has failed to argue "how" the prior art of record does not disclose these terms. The examiner, in the rejection above, has pointed out where these claims

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are covered in the prior art, therefore the examiner considers these terms to be taught by the prior art of record, therefore argument is not considered to be persuasive.

With respect to Appellant's argument of Issue 1B: The appellant has stated that there is no disclosure in Nicholls, Kara or Intershipper of determining or identifying each carrier of a plurality of carriers that would support shipping a particular parcel from a particular shipping location associated with a particular user according to each carriers shipping location rules: Nicholls discloses using shipping rules to calculate rates for a shipment from a plurality of carriers, Kara discloses calculating rates for multiple carriers and discloses the rates that are calculated and displayed are for those carriers meeting the desired parameters, one of them using location such as zones (Column 22, lines 1-48). Therefore it is the examiner's position that the combination of both Nicholls and Kara teach this limitation. Kara clearly discloses that it displays only the carriers which support the parameters. Kara discloses the use of zones, which are used to calculate postage, therefore discloses the shipping location to be a parameter. The appellant is arguing that the use of zones, which is in Kara and Nicholls, is not the same as using a shipping location and states that the zones of Nicholls are only destination zones, not origination zones. In order for a shipping rate to be determined, the starting point (origin) and the ending point (destination) must be known. Nicholls and Kara discloses the use of zones for the calculation, which the examiner considers to be the form of a shipping location, zones are defined as zip codes, zip codes define postal areas, therefore are areas to which something is shipped, therefore the examiner considers this to be a shipping location rule.

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The appellant is also arguing that Nicholls does not disclose determining or identifying carriers that would support shipping a parcel from a particular shipping location, however as outlined in the rejection above, the examiner considers Kara to show this limitation, Nicholls is not relied on for this feature, nor is Intershipper.

The appellant has stated that the “shipping location” is distinguishable from the designation of a “zone” and from a user’s address. The examiner disagrees. A shipping location is a location of where an item is shipped from. If a user ships something using Nicholls or Kara, then the user's address, or zone, is considered to be the shipping location. The claims as well as the specification, allow for the user to ship from the user's address, therefore Nicholls and Kara teach the “claimed” invention of the shipping location. Argument not considered to be persuasive.

With respect to Appellant’s argument of Issue 2: The appellant is arguing that there is no disclosure in Nicholls, Kara or InterShipper of generating a simultaneous online display of a plurality of delivery services for each carrier of a plurality of carriers that would support shipping a particular parcel from a default shipping location associated with a particular user according to each carriers shipping location rules. The appellant has submitted that InterShipper does not state that its display comprises a display of rates for each delivery service or each carrier. The appellant is arguing that "every method" means each delivery service offered by each carrier. InterShipper discloses the use of storing rates for multiple carriers and even if the term "every method" is not completely clear that it means each delivery service for each carrier. Intershipper is combined with Kara. Kara discloses a display of rates for each carrier for a

particular delivery service, the examiner considers a method of delivering a package to include a type of service in which the method would use to delivery the package. Therefore the combination of Kara and InterShipper, would provide a clear simultaneous display of every service (every method) for every carrier.

With respect to Appellant's argument of Issue 2A: The appellant has argued that there is no disclosure in Nicholls, Kara or InterShipper of calculating a shipping rate by each service of a plurality of services for each carrier of a plurality of carriers for shipping a particular parcel according to each carriers shipping location rules. The appellant is relying on arguments previously made as to the shipping location not be the same as a zone. As stated above, in Issue 1B, the examiner considers a zone to be a shipping location, and when a user ships a package, the users shipping address would be the shipping location. Even though there may be multiple shipping locations within one zone, the zone is one location which incorporates many shipping locations, and the zone is obtained from the user's address, therefore the examiner considers the combination of Nicholls Kara and InterShipper to disclose the use of calculating a shipping rate by each service of a plurality of services for each carrier of a plurality of carriers for shipping a particular parcel according to each carriers shipping location rules.

(11) Related Proceeding(s) Appendix

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Jamisue Plucinski

/Jamisue A. Plucinski/

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